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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

RAMON ROBLEDO-DOMINGUEZ,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-71353

Agency No. A74-305-882

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 7, 2003**
Pasadena, California

Before: HALL, O'SCANNLAIN, Circuit Judges, and BROWN, District Judge.***

Ramon Robledo-Dominguez, a native and citizen of Mexico, petitions for

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

*** The Honorable Anna J. Brown, U.S. District Judge for the District of Oregon, sitting by designation.

review of a decision of the Board of Immigration Appeals upholding an Immigration Judge's denial of his application for cancellation of removal.

As counsel for petitioner acknowledges, our recent decision in *Vasquez-Lopez v. Ashcroft*, 315 F.3d 1201 (9th Cir. 2003) (per curiam), *as amended by* 343 F.3d 961, has dealt Robledo-Dominguez's petition for review a "fatal" blow. *See* Petitioner's Brief at 8. In *Vasquez-Lopez*, we held that "an alien who commits to departure in order to avoid [removal] proceedings is [not] entitled to continue accruing 'presence' so as to become eligible for other discretionary relief." *Id.* at *16. Because Robledo-Dominguez's voluntary departure to Mexico in 1995 therefore cut off his accrual of continuous physical presence in the United States for purposes of cancellation of removal, and because only five years passed between his 1995 return to the United States and the INS's service of a notice to appear in 2000, Robledo-Dominguez lacks the ten years of continuous physical presence necessary to secure his eligibility for cancellation of removal under 8 U.S.C. § 1229b(b)(1). Accordingly, his petition must be

DENIED.